

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

AARON ZANE TYLER,

Plaintiff,

v.

No. 22-CV-312-JFH-KEW

JOHNNY DALLAS, et al.,

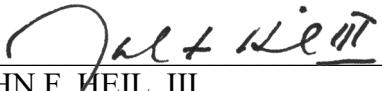
Defendants.

OPINION AND ORDER

Plaintiff Aaron Zane Tyler, a convicted and sentenced state prisoner, has named the Cherokee County Detention Center as a defendant in this civil rights action filed pursuant to 42 U.S.C. § 1983. Dkt. No. 1. The capacity of an entity to be sued is determined by the law of the state in which the federal district court is located. Fed. R. Civ. P. 17(b). Under Oklahoma law, “any person, corporation, partnership, or unincorporated association [has] capacity to . . . be sued in this state.” Okla. Stat. tit. 12, § 2017(B). While the Oklahoma courts have not addressed in a published opinion the issue of whether a jail or prison has capacity to be sued, the Tenth Circuit Court of Appeals has held in an unpublished opinion that “the Creek County Criminal Justice Center is not a suable entity under § 1983.” *Hinton v. Dennis*, 362 F. App’x 904, 907 (10th Cir. Jan. 25, 2010) (citing *Martinez v. Winner*, 771 F.2d 424, 444 (10th Cir. 1985)). Accordingly, this Court finds the Cherokee County Detention Center is not a suable defendant in this action.

IT IS THEREFORE ORDERED that Defendant Cherokee County Detention Center is dismissed from this action, with prejudice.

Dated this 8th day of November 2022.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE